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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

ALEXIOS KAFATOS, individually and) Case No.  
on behalf of all others similarly situated,)

) **CLASS ACTION**  
Plaintiff, )

) **COMPLAINT FOR VIOLATIONS**  
vs. ) **OF:**  
)

CREDIT ONE BANK, N.A., and ) 1. NEGLIGENT VIOLATIONS  
DOES 1 through 10, inclusive, ) OF THE TELEPHONE  
) CONSUMER PROTECTION  
) ACT [47 U.S.C. §227 ET  
Defendant. ) SEQ.]  
) 2. WILLFUL VIOLATIONS  
) OF THE TELEPHONE  
) CONSUMER PROTECTION  
) ACT [47 U.S.C. §227 ET  
) SEQ.]  
) 3. VIOLATIONS OF THE  
) ROSENTHAL FAIR DEBT  
) COLLECTION PRACTICES  
) ACT [CAL. CIV. CODE  
) §1788 ET SEQ.]  
)

) **DEMAND FOR JURY TRIAL**

Plaintiff ALEXIOS KAFATOS (“Plaintiff”), individually and on behalf of  
all others similarly situated, alleges the following against Defendant CREDIT ONE

1 BANK, N.A. upon information and belief based upon personal knowledge:

2 **INTRODUCTION**

3 1. Plaintiff's Class Action Complaint is brought pursuant to the  
4 Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. ("TCPA").

5 2. Plaintiff, individually, and on behalf of all others similarly situated,  
6 brings this Complaint for damages, injunctive relief, and any other available legal  
7 or equitable remedies, resulting from the illegal actions of Defendant in  
8 negligently, knowingly, and/or willfully contacting Plaintiff no Plaintiff's cellular  
9 telephone, thereby the TCPA, 47 U.S.C. § 227. Plaintiff alleges as follows upon  
10 personal knowledge as to himself and his own acts and experiences, and, as to all  
11 other matters, upon information and belief, including investigation conducted by  
12 his attorneys.

13 3. In addition to Plaintiff's Class Claims, Plaintiff also brings an action  
14 for damages as an individual consumer for Defendant's violations the Rosenthal  
15 Fair Debt Collection Practices Act, Cal Civ. Code §1788, et seq. (hereinafter  
16 "RFDCPA") which prohibits debt collectors from engaging in abusive, deceptive,  
17 and unfair practices.

18 **JURISDICTION AND VENUE**

19 4. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,  
20 a resident of California, seeks relief on behalf of a Class, which will result in at  
21 least one class member belonging to a different state than that of Defendant, a  
22 Wisconsin company that does business in California and other States. Plaintiff  
23 also seeks up to \$1,500.00 in damages for each call in violation of the TCPA,  
24 which, when aggregated among a proposed class in the thousands, exceeds the  
25 \$5,000,000.00 threshold for federal court jurisdiction. Therefore, both diversity  
26 jurisdiction and the damages threshold under the Class Action Fairness Act of 2005  
27 ("CAFA") are present, and this Court has jurisdiction.  
28

1           5.     Alternatively, this Court has jurisdiction over Plaintiff's TCPA  
2 claims pursuant to 28 U.S.C. § 1331.

3           6.     Ancillary to Plaintiff's TCPA claims, this Court has jurisdiction  
4 pursuant to 28 U.S.C. § 1367(a) over Plaintiff's claims arising under the RFDCPA,  
5 Cal. Civ. Code § 1788, *et seq.* because they arise under the same case or  
6 controversy.

7           7.     Venue is proper in the United States District Court for the Central  
8 District of California pursuant to 28 U.S.C. § 1391(b)(2) because Defendant does  
9 business within the State of California and Plaintiff resides within this District.

10                           **PARTIES**

11           8.     Plaintiff, ALEXIOS KAFATOS ("PLAINTIFF"), is a natural person  
12 residing in Orange County in the state of California, and is a "person" as defined  
13 by 47 U.S.C. § 153(39). Furthermore, Plaintiff is a "debtor" as defined by the  
14 RFDCPA, Cal. Civ. Code § 1788.2(h).

15           9.     At all relevant times herein, DEFENDANT, CREDIT ONE BANK,  
16 N.A. ("DEFENDANT"), is financial institution engaged in soliciting and  
17 providing credit services and collection activity in connection with debts allegedly  
18 owed to it, and is a "person" as defined by 47 U.S.C. § 153(39). Furthermore,  
19 Defendant, at all relevant times herein, was a company engaged, by use of the  
20 mails and telephone, in the business of collecting an alleged debt from PLAINTIFF  
21 which qualifies as a "consumer debt" as defined by the RFDCPA, Cal. Civ. Code  
22 § 1788.2(f). DEFENDANT regularly attempts to collect debts in the ordinary  
23 course of its business, and therefore is a "debt collector" as defined by the  
24 RFDCPA, Cal. Civ. Code § 1788.2(c).

25           10.    Defendants acted through their agents, employees, officers, members,  
26 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
27 representatives, and insurers.  
28

1           11. The above named Defendant, and its subsidiaries and agents, are  
2 collectively referred to as “Defendants.” The true names and capacities of the  
3 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are  
4 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious  
5 names. Each of the Defendants designated herein as a DOE is legally responsible  
6 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend  
7 the Complaint to reflect the true names and capacities of the DOE Defendants  
8 when such identities become known.

9           12. Plaintiff is informed and believes that at all relevant times, each and  
10 every Defendant was acting as an agent and/or employee of each of the other  
11 Defendants and was acting within the course and scope of said agency and/or  
12 employment with the full knowledge and consent of each of the other Defendants.  
13 Plaintiff is informed and believes that each of the acts and/or omissions  
14 complained of herein was made known to, and ratified by, each of the other  
15 Defendants.  
16

17                           **FACTUAL ALLEGATIONS – TCPA**

18           13. Beginning as early as November of 2017, Defendant contacted  
19 Plaintiff on his cellular telephone number ending in -3062, in an effort to collect  
20 an alleged debt owed from Plaintiff.

21           14. Defendant called Plaintiff from telephone numbers confirmed to  
22 belong to Defendant, including without limitation (909) 334-4496; (909) 334-  
23 4526; (909) 557-9991; (909) 334-4526; (909) 479-3367; (909) 479-3357; (909)  
24 557-9989; (909) 557-9990; (909) 479-3347; (909) 479-2480; (704) 496-5354; and  
25 (866) 910-7740.

26           15. In its efforts to collect the alleged debt owed from Plaintiff, Defendant  
27 used an “automatic telephone dialing system,” as defined by 47 U.S.C. § 227(a)(1)  
28 to place its daily calls to Plaintiff seeking to collect an alleged debt owed.

1           16. Defendant's calls constituted calls that were not for emergency  
2 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

3           17. Defendant's calls were placed to telephone number assigned to a  
4 cellular telephone service for which Plaintiff incurs a charge for incoming calls  
5 pursuant to 47 U.S.C. § 227(b)(1).

6           18. During all relevant times, Defendant did not possess Plaintiff's "prior  
7 express consent" to receive calls using an automatic telephone dialing system or  
8 an artificial or prerecorded voice on his cellular telephone pursuant to 47 U.S.C. §  
9 227(b)(1)(A).

10           19. Furthermore, Plaintiff orally revoked any and all consent to be  
11 contacted using an automated telephone dialing system, to the extent any ever  
12 existed.

13           20. Despite Plaintiff's oral revocation of consent to be called, Defendant  
14 continued to call Plaintiff.

15           21. Plaintiff alleged upon information and belief, including without  
16 limitation his experience of being called by Defendant despite his explicit  
17 revocation of consent to be called, that Defendant failed to put in place reasonable  
18 policies and procedures to avoid violation of the TCPA.

19  
20                   **FACTUAL ALLEGATIONS – RFDCPA**

21           22. In addition to the facts pled above, at various times prior to the filing  
22 of the instant complaint, including within one year preceding the filing of this  
23 complaint, DEFENDANT contacted PLAINTIFF in an attempt to collect an  
24 alleged outstanding debt.

25           23. Beginning November of 2017, Plaintiff began receiving numerous  
26 calls from Defendant.

27           24. Each of these calls were made to Plaintiff in connection with  
28 collection on an alleged debt.

1        25. Upon information and belief, in or around October of 2017,  
 2 Defendant sold the alleged debt to a third party. However, Defendant continued to  
 3 contact Plaintiff in an attempt to collect upon the alleged debt.

4        26. On several occasions, Plaintiff told Defendant to stop calling him, but  
 5 Defendant continued to call.

6        27. The RFDCPA, Cal. Civ. Code § 1788.17 mandates that every debt  
 7 collector collecting or attempting to collect a consumer debt shall comply with the  
 8 Federal Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1692b  
 9 through 1692j and be subject to the remedies in the FDCPA, 15 U.S.C. § 1692k.

10        28. DEFENDANT’S conduct violated the RFDCPA in multiple ways,  
 11 including but not limited to:

- 12            a) Causing a telephone to ring repeatedly or continuously to annoy  
 13 Plaintiff (Cal. Civ. Code § 1788.11(d));
- 14            b) Communicating, by telephone or in person, with Plaintiff with such  
 15 frequency as to be unreasonable and to constitute an harassment to  
 16 Plaintiff under the circumstances (Cal. Civ. Code § 1788.11(e));
- 17            c) Causing Plaintiffs telephone to ring repeatedly or continuously with  
 18 intent to harass, annoy or abuse Plaintiff (15 U.S.C. § 1692d(5));
- 19            d) Communicating with Plaintiff at times or places which were known  
 20 or should have been known to be inconvenient for Plaintiff (15  
 21 U.S.C. § 1692c(a)(1)); and
- 22            e) Engaging in conduct the natural consequence of which is to harass,  
 23 oppress, or abuse Plaintiff (15 U.S.C. § 1692d)).
- 24

25        29. As a result of the above violations of the RFDCPA, Plaintiff suffered  
 26 and continues to suffer injury to PLAINTIFF’S feelings, personal humiliation,  
 27 embarrassment, mental anguish and emotional distress, and DEFENDANT is  
 28 liable to PLAINTIFF for PLAINTIFF’S actual damages, statutory damages, and

1 costs and attorney's fees.

2 ///

3 **CLASS ACTION ALLEGATIONS**

4 30. Plaintiff brings this action individually and on behalf of all others  
5 similarly situated, as a member of the proposed class (hereafter "The Class")  
6 defined as follows:

7 All persons within the United States who received any  
8 telephone calls from Defendant to said person's cellular  
9 telephone made through the use of any automatic  
10 telephone dialing system or an artificial or prerecorded  
11 voice and such person had not previously consented to  
12 receiving such calls within the four years prior to the  
filing of this Complaint

13 31. Plaintiff represents, and is a member of, The Class, consisting of All  
14 persons within the United States who received any collection telephone calls from  
15 Defendant to said person's cellular telephone made through the use of any  
16 automatic telephone dialing system or an artificial or prerecorded voice and such  
17 person had not previously not provided their cellular telephone number to  
18 Defendant within the four years prior to the filing of this Complaint.

19 32. Defendant, its employees and agents are excluded from The Class.  
20 Plaintiff does not know the number of members in The Class, but believes the Class  
21 members number in the thousands, if not more. Thus, this matter should be  
22 certified as a Class Action to assist in the expeditious litigation of the matter.

23 33. The Class is so numerous that the individual joinder of all of its  
24 members is impractical. While the exact number and identities of The Class  
25 members are unknown to Plaintiff at this time and can only be ascertained through  
26 appropriate discovery, Plaintiff is informed and believes and thereon alleges that  
27 The Class includes thousands of members. Plaintiff alleges that The Class  
28 members may be ascertained by the records maintained by Defendant.



1           34. Plaintiff and members of The Class were harmed by the acts of  
2 Defendant in at least the following ways: Defendant illegally contacted Plaintiff  
3 and Class members via their cellular telephones thereby causing Plaintiff and Class  
4 members to incur certain charges or reduced telephone time for which Plaintiff and  
5 Class members had previously paid by having to retrieve or administer messages  
6 left by Defendant during those illegal calls, and invading the privacy of said  
7 Plaintiff and Class members.

8           35. Common questions of fact and law exist as to all members of The  
9 Class which predominate over any questions affecting only individual members of  
10 The Class. These common legal and factual questions, which do not vary between  
11 Class members, and which may be determined without reference to the individual  
12 circumstances of any Class members, include, but are not limited to, the following:

- 13           a. Whether, within the four years prior to the filing of this  
14 Complaint, Defendant made any collection call (other than a  
15 call made for emergency purposes or made with the prior  
16 express consent of the called party) to a Class member using  
17 any automatic telephone dialing system or any artificial or  
18 prerecorded voice to any telephone number assigned to a  
19 cellular telephone service;
- 20           b. Whether Plaintiff and the Class members were damages  
21 thereby, and the extent of damages for such violation; and
- 22           c. Whether Defendant should be enjoined from engaging in such  
23 conduct in the future.

24           36. As a person that received numerous collection calls from Defendant  
25 using an automatic telephone dialing system or an artificial or prerecorded voice,  
26 without Plaintiff's prior express consent, Plaintiff is asserting claims that are  
27 typical of The Class.

28           37. Plaintiff will fairly and adequately protect the interests of the members



1 of The Class. Plaintiff has retained attorneys experienced in the prosecution of  
2 class actions.

3 38. A class action is superior to other available methods of fair and  
4 efficient adjudication of this controversy, since individual litigation of the claims  
5 of all Class members is impracticable. Even if every Class member could afford  
6 individual litigation, the court system could not. It would be unduly burdensome  
7 to the courts in which individual litigation of numerous issues would proceed.  
8 Individualized litigation would also present the potential for varying, inconsistent,  
9 or contradictory judgments and would magnify the delay and expense to all parties  
10 and to the court system resulting from multiple trials of the same complex factual  
11 issues. By contrast, the conduct of this action as a class action presents fewer  
12 management difficulties, conserves the resources of the parties and of the court  
13 system, and protects the rights of each Class member.

14 39. The prosecution of separate actions by individual Class members  
15 would create a risk of adjudications with respect to them that would, as a practical  
16 matter, be dispositive of the interests of the other Class members not parties to such  
17 adjudications or that would substantially impair or impede the ability of such non-  
18 party Class members to protect their interests.

19 40. Defendant has acted or refused to act in respects generally applicable  
20 to The Class, thereby making appropriate final and injunctive relief with regard to  
21 the members of The Class as a whole.

## 22 **FIRST CAUSE OF ACTION**

### 23 **Negligent Violations of the Telephone Consumer Protection Act**

#### 24 **47 U.S.C. §227 et seq.**

#### 25 **By Plaintiff and The Class Against Defendant**

26 41. Plaintiff repeats and incorporates by reference into this cause of  
27 action the allegations set forth above at Paragraphs 1-40.

28 42. The foregoing acts and omissions of Defendant constitute numerous

1 and multiple negligent violations of the TCPA, including but not limited to each  
2 and every one of the above cited provisions of 47 U.S.C. § 227 *et seq.*

3 43. As a result of Defendant's negligent violations of 47 U.S.C. § 227 *et*  
4 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory  
5 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

6 44. Plaintiff and the Class members are also entitled to and seek  
7 injunctive relief prohibiting such conduct in the future.

8 **SECOND CAUSE OF ACTION**

9 **Knowing and/or Willful Violations of the Telephone Consumer Protection**  
10 **Act**

11 **47 U.S.C. §227 *et seq.***

12 **By Plaintiff and The Class Against Defendant**

13 45. Plaintiff repeats and incorporates by reference into this cause of  
14 action the allegations set forth above at Paragraphs 1-40.

15 46. The foregoing acts and omissions of Defendant constitute numerous  
16 and multiple knowing and/or willful violations of the TCPA, including but not  
17 limited to each and every one of the above cited provisions of 47 U.S.C. § 227 *et*  
18 *seq.*

19 47. As a result of Defendant's knowing and/or willful violations of 47  
20 U.S.C. § 227 *et seq.*, Plaintiff and the Class members are entitled an award of  
21 \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C.  
22 § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

23 48. Plaintiff and the Class members are also entitled to and seek  
24 injunctive relief prohibiting such conduct in the future.

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26 ///

27 ///

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2 ///

3 **THIRD CAUSE OF ACTION**

4 **Violations of the Rosenthal Fair Debt Collection Practices Act**

5 **Cal. Civ. Code § 1788 et seq.**

6 **By Plaintiff, Individually, Against Defendant**

7 49. Plaintiff repeats and reincorporates by reference into this cause of  
8 action allegations set forth above at paragraphs 1-29.  
9

10 50. To the extent that Defendant's actions, counted above, violated the  
11 RFDCPA, those actions were done knowingly and willfully.  
12

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff requests judgment against Defendant for the  
15 following:  
16

17 **FIRST CAUSE OF ACTION**

18 **Negligent Violations of the Telephone Consumer Protection Act**

19 **47 U.S.C. §227 et seq.**

- 20
- 21 • As a result of Defendant's negligent violations of *47 U.S.C.*  
22 *§227(b)(1)*, Plaintiff and the Class members are entitled to and  
23 request \$500 in statutory damages, for each and every violation,  
24 pursuant to *47 U.S.C. 227(b)(3)(B)*.
  - 25 • Any and all other relief that the Court deems just and proper.

26 **SECOND CAUSE OF ACTION**

27 **Knowing and/or Willful Violations of the Telephone Consumer Protection**  
28 **Act**

**47 U.S.C. §227 et seq.**

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

**THIRD CAUSE OF ACTION**

**Violations of the Rosenthal Fair Debt Collection Practices Act**

**Cal. Civ. Code § 1788 et seq.**

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
- B. Statutory damages for willful and negligent violations;
- C. Costs and reasonable attorney's fees;
- D. For such other and further relief as may be just and proper.

**TRIAL BY JURY**

51. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted this 25th Day of April, 2018.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman  
Todd M. Friedman  
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